BILL NO. S-85-11-48

SPECIAL ORDINANCE NO. S 234-85

ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE
TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND,
SERIES 1985 (RICHARD J. FREELAND PROJECT)"
AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Fort Wayne Economic Development Commission has rendered its Project Report for the Richard J. Freeland Project regarding the financing of proposed economic develop ment facilities for the Project and the Fort Wayne Plan Commission has commented favorably thereon; and

WHEREAS, the Fort Wayne Economic Development Commission conducted a public hearing on November 21, 1985, and also adopted a resolution on November 21, 1985, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of Richard J. Freeland complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and that such financing will be of benefit to the health and welfare of the City of Fort Wayne and its citizens; and

WHEREAS, the Fort Wayne Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Common Council the Trust Indenture, Loan Agreement, Mortgage and Security Agreement, Lease, Lessee's Consent and Agreement to Lease Assignment, and Conditional Assignment of Lease and Rentals; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, THAT:

SECTION 1. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement approved by the Fort Wayne Economic Development Commission and presented to this Common Council, the issuance and sale of revenue

bonds, the loan of the proceeds of the revenue bonds to Richard J. Freeland for the acquisition and construction of such facilities and the equipping thereof, and the payment of the revenue bonds by the payments of Richard J. Freeland under the Loan Agreement, complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

SECTION 2. The economic development facilities will consist of acquisition of real estate and construction of office, administrative, and training facilities, together with acquisition of furniture and equipment, for lease to Pizza Huts of Fort Wayne, Inc., said project to be located at 7100 W. Jefferson Blvd., Allen County, Indiana (the "Project").

SECTION 3. At the public hearing held by the Fort Wayne Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in the City of Fort Wayne, and found, based on special findings of fact set forth in the Resolution transmitted hereto, that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in the City of Fort Wayne, and the facilities will be of benefit to the health and welfare of the citizens of the City of Fort Wayne.

SECTION 4. The substantially final forms of the Trust Indenture, Loan Agreement, Mortgage and Security Agreement, Lease, Lessee's Consent and Agreement to Lease Assignment, and Conditional Assignment of Lease and Rentals, approved by the Fort Wayne Economic Development Commission are hereby approved and each shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance

with the provisions of I.C. 36-1-5-4, two (2) copies of each of said documents are on file in the office of the Clerk for public inspection.

SECTION 5. The City of Fort Wayne shall issue its Economic Development Revenue Bond, Series 1985 (Richard J. Freeland Project), in the total principal amount of One Million Seven Hundred Fifty Thousand Dollars ($1,750,000.00) and maturing December 1, 2000. Said bonds are to be issued for the purpose of procuring funds to pay the costs of acquisition, construction and equipping of the economic development facilities as more particularly set out in the Loan Agreement, Mortgage and Security Agreement and Trust Indenture incorporated herein by reference, which bond will be payable as to principal, premium, if any, and interest from the payments made by Richard J. Freeland and payments made under the building lease or as otherwise provided for under the Loan Agreement, Mortgage and Security Agreement and Trust Indenture. The bonds shall be issued in fully registered form in the denomination of $5,000 or any integral multiple of $5,000 in excess thereof provided that the bonds may be issued in the denomination of $5,000 or any integral multiple thereof if necessary to evidence the unredeemed portion of any bond. The bonds shall be redeemable as provided in Article V of the Trust Indenture. Payments of principal and interest are payable in lawful money of the United States of America. Payments of principal are payable at the principal office of the Trustee or its successor in trust. Payments of interest are payable by check mailed to the registered owner as of the Record Date as provided in the Indenture of Trust. The bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Fort Wayne, nor are the bonds payable in any manner from revenues raised by taxation.

SECTION 6. The Mayor and Clerk are authorized and directed to sell such bonds to the purchasers thereof at a price of not less

than 100% of the principal amount thereof. The bonds shall bear interest at a rate of interest of 9½% per annum or at such other rate as provided for in the Trust Indenture.

SECTION 7. The Mayor and Clerk are authorized and directed to execute, attest, affix or imprint by any means the City seal to these documents to be executed by the City which are approved herein on behalf of the City and any other document which may be necessary or desirable to consummate the transaction, including the bonds authorized herein. The Mayor and Clerk are hereby expressly authorized to approve any modifications or additions to the documents to be executed by the City which are approved herein which take place after the date of this Ordinance with the review and advice of the City Attorney; it being the express understanding of this Common Council that said documents to be executed by the City are in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, interest rate on or term of the bonds as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk on the bonds may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such bonds to the Trustee named in the Trust Indenture, and payment for the bonds will be made to the Trustee named in the Trust Indenture and after such payment the bonds will be delivered by the Trustee to the purchasers thereof. The Mayor and Clerk shall execute and the Clerk shall deliver the bonds to the Trustee within ninety days of the adoption of this ordinance. The bonds shall be dated the date of authentication thereof.

SECTION 8. The provisions of this Ordinance and the Trust

Indenture securing the bonds shall constitute a contract binding between the City of Fort Wayne and the holder of the Economic Development Revenue Bond, Series 1985 (Richard J. Freeland Project), and after the issuance of said bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as any of said bonds or the interest thereon remains unpaid.

SECTION 9. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

COUNCILMAN

ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
AND APPROVED AS TO FORM.

John J. Wernet, Attorney for the
Economic Development Commission
Dated this 25 day of November, 1985.

APPROVED AS TO FORM AND LEGALITY.

Bruce O. Boxberger, City Attorney
Dated this 25 day of November, 1985.

Read the first time in full and on motion by Eisbart seconded by Stier, and duly adopted, read the second tim by title and referred to the Committee Finance (and the Ci Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Way Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ____.M.,E

DATE: _____

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Eisbart seconded by Redd, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA				✓	
HENRY	✓				
REDD	✓				
SCHMIDT	✓				
STIER	✓				
TALARICO	✓				

DATE: 12-10-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ANNEXATION~~) (~~APPROPRIATION~~) (GENERAL) (SPECIAL) (~~ZONING MAP~~) ORDINANCE (~~RESOLUTION~~) NO. S-234-85 on the 10th day of December, 19 85.

ATTEST: (SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of December, 19 85, at the hour of 11:00 o'clock A.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 12th day of December, 19 85, at the hour of 8:30 o'clock A.M.,E.S.T.

[signature]
WIN MOSES, JR., MAYOR

BILL NO. S-85-11-48

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN (ORDINANCE) (~~RESOLUTION~~) AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT R_VENUE BOND, SERIES 1985 (RICHARD J. FREELAND PROJECT)" AND APPROVING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~) DO PASS DO NOT PASS WITHDRAWN

YES		NO
	BEN A. EISBART, CHAIRMAN	
Janet G. Bradbury	JANET G. BRADBURY, VICE CHAIRWOMAN	
Samuel J. Talarico	SAMUEL J. TALARICO	
	THOMAS C. HENRY	
	JAMES S. STIER	

CONCURRED IN 12-10-85

SANDRA E. KENNEDY
CITY CLERK